United Nations A/53/469

General Assembly

Distr.: General
8 October 1998

Original: English

Fifty-third session
Agenda item 110 (a)
Human rights questions: implementation of human rights instruments

Effective implementation of international instruments on human rights, including reporting obligations under international instruments on human rights

Report of the Secretary-General

1. At its fifty-second session, by resolution 52/118 of 12 December 1997, the General Assembly requested the Secretary-General to report to it at its fifty-third session on measures taken to implement that resolution, on obstacles to its implementation and on measures taken or planned to ensure financing and adequate staff and information resources for the effective operation of the human rights treaty bodies. It decided to continue giving priority consideration at its fifty-third session, under the item entitled "Human rights questions", to the conclusions and recommendations of the meetings of persons chairing the human rights treaty bodies, in the light of the deliberations of the Commission on Human Rights.

2. The present report contains a summary of action taken by the Commission on Human Rights, the human rights treaty bodies, the meeting of the persons chairing those bodies and the Secretariat to implement General Assembly resolution 52/118.

3. At its fifty-fourth session, the Commission on Human Rights examined the question of the effective implementation of international instruments on human rights, including reporting obligations under international instruments on human rights, and, on 17 April 1998, adopted resolution 1998/27 on this question. It will consider the question again at its fifty-sixth session.

Extraordinary meeting of persons chairing human rights treaty bodies

4. The persons chairing the human rights treaty bodies convened for an extraordinary three-day meeting at the United Nations Office at Geneva from 25 to 28 February 1998 to pursue the reform process initiated at their previous meeting aimed at improving the effective implementation of international instruments on human rights. The request for an extraordinary meeting had been welcomed by the General Assembly at its fifty-second session. The report on the meeting, including the conclusions and recommendations of the chairpersons, is contained in document A/53/125.

Plans of action to strengthen the implementation of the Convention on the Rights of the Child and the International Covenant on Economic, Social and Cultural Rights

5. The treaty bodies have long expressed concern about the low level of resources allocated to them. Two of them – the Committee on the Rights of the Child and the Committee on Economic, Social and Cultural Rights – adopted plans of

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action to strengthen the implementation of the treaties they monitor through extrabudgetary resources.

6. The Plan of Action to strengthen the implementation of the Convention on the Rights of the Child aims to improve the quantitative and qualitative support provided to the Committee on the Rights of the Child and to strengthen follow-up to the Committee's recommendations at the national level. The Plan provides, *inter alia*, for a support staff of up to five Professionals and funds for national-level activities. Since the Plan became operational in July 1997, the quality of country analyses and other key documents provided to the Committee has significantly improved. In addition, a preliminary survey of specific activities undertaken to follow up the Committee's recommendations at the national level has been conducted by the support team and consideration has been given to the activities to be undertaken. As at 5 August 1998, US$ 1,322,066.44 had been received.

7. The Plan of Action to strengthen the implementation of the International Covenant on Economic, Social and Cultural Rights had obtained, as at 5 August 1998, $149,247.92 of an estimated $435,728.00 needed per year to implement the Plan. Active preparations are under way to hire one expert staff member under that Plan to strengthen the quantitative and qualitative secretariat input to the Committee on Economic, Social and Cultural Rights and to follow up recommendations of the Committee at the national level.

Global Plan of Action

8. At their ninth meeting, the persons chairing the treaty bodies (A/53/125, para. 24) requested the United Nations High Commissioner for Human Rights to prepare, in consultation with the chairperson of that meeting, a global plan of action to enhance the resources available to all the human rights treaty bodies. Subsequently, the Commission on Human Rights, in its resolution 1998/27, noted the proposal with interest and encouraged the High Commissioner to prepare a draft plan of action for consideration by the persons chairing the treaty bodies at their next meeting, in September 1998. A draft global plan is in preparation, in particular addressing the needs of those treaty bodies which do not benefit from a treaty-specific plan of action.

Role of treaty bodies in identifying possibilities for technical assistance

9. The General Assembly, the Commission on Human Rights and the persons chairing the treaty bodies at their ninth meeting encouraged the human rights treaty bodies to continue to identify possibilities for technical assistance in the regular course of their work of reviewing the reports of States parties.

10. The treaty bodies in their concluding observations – when a specific need is identified in the course of the examination of State reports – regularly recommend that States parties avail themselves of technical cooperation projects and programmes available from the Office of the High Commissioner for Human Rights. Such needs commonly include assistance or training with drafting of State reports; review or revision of legislation; human rights training for members of professions directly involved in the promotion and protection of human rights, including judges, lawyers, police and armed forces, social workers and doctors; establishment of a central office or post of ombudsperson to deal with complaints of human rights abuses; and dissemination of information or conduct of public information campaigns in respect of the treaties. Two treaty bodies regularly issue documents compiling their recommendations for technical cooperation.[1]

Analytical study comparing the provisions of the six principal international human rights treaties and compilation of the reporting guidelines of the six treaties in a single volume

11. The General Assembly, in its resolution 52/118, called upon the Secretary-General to complete as soon as possible the detailed analytical study comparing the provisions of the six principal international human rights treaties.[2] It is envisaged that this study will be submitted to the General Assembly at its fifty-fourth session.

12. The General Assembly also requested the Secretary-General to compile in a single volume all the general guidelines regarding the form and content of reports to be submitted by States parties that have been issued by the treaty monitoring bodies. Those guidelines will be compiled and presented to the persons chairing the treaty bodies at their eleventh meeting.

Honoraria

13. In its resolution 52/118, the General Assembly requested the Secretary-General to submit a detailed explanation of the basis for the payment of honoraria to the members of the human rights treaty bodies and suggestions to improve coherence in this regard. Attention is drawn to the interim study of the Secretary-General on the question of honoraria payable to members of organs and subsidiary organs of the United Nations (A/52/699). In that study, reference was made to General Assembly resolutions 2489 (XXIII) of 21 December 1968, 3536 (XXX) of 17 December 1975 and 35/218 of 17 December 1980, by which the Assembly had decided that neither a fee nor any other remuneration in addition to subsistence allowances at the standard rate would normally be paid to members of organs or subsidiary organs unless expressly decided upon by the Assembly.

14. Payment of honoraria was approved by the General Assembly to members of the Human Rights Committee, the Committee on the Elimination of Discrimination against Women and the Committee on the Rights of the Child by resolutions 32/212 of 21 December 1977, 36/240 A of 18 December 1981 and resolution 44/201 A of 21 December 1989, respectively. The General Assembly has not approved the payment of honoraria to the members of the remaining three treaty monitoring bodies.

15. However, it may be noted that the General Assembly, by its resolution 47/111 of 16 December 1992, endorsed amendments to the treaties monitored by the Committee on the Elimination of Racial Discrimination and the Committee against Torture by which members of those Committees should henceforth receive emoluments from United Nations resources on such terms and conditions as might be decided by the Assembly.

16. The amendment to the International Convention on the Elimination of All Forms of Racial Discrimination was adopted at the fourteenth meeting of States Parties on 15 January 1992. It was decided that a new paragraph should be added as paragraph 7 of article 8, reading:

> "The members of the Committee established under the present Convention shall, with the approval of the General Assembly, receive emoluments from United Nations resources on such terms and conditions as the General Assembly may decide." (CERD/SP/45, annex)

The decision to amend article 8 further provided that:

> "... the amendment shall enter into force when it has been approved by the General Assembly and accepted by a two-thirds majority of States parties which shall have so notified the Secretary-General as depositary." (CERD/SP/45, annex)

As at 1 September 1998, 24 States parties to the Convention had accepted the amendment, significantly short of the two-thirds majority required for the amendment to enter into force.

17. The Conference of States Parties to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment decided, on 9 September 1992, to delete paragraph 7 of article 17 and paragraph 5 of article 18 of the Convention, and to insert a new paragraph 4 of article 18, reading:

> "The members of the Committee established under the present Convention shall receive emoluments from the United Nations resources on such terms and conditions as the General Assembly shall decide." (CAT/SP/SR.4; CAT/SP/1992/L.1)

The Conference, in adopting the amendment, also recalled that:

> "... the amendment shall become operative when it has been accepted by two thirds of the States parties to the Convention which shall have so notified the Secretary-General as depositary, and on the understanding that the proposed amendments will become operative only when the General Assembly has taken appropriate action." (CAT/SP/SR.4; CAT/SP/1992/L.1)

As at 1 September 1998, only 21 States parties had accepted the amendment.

18. In addition, the Economic and Social Council, in its decision 1993/297 of 28 July 1993, endorsed the recommendation that members of the Committee on Economic, Social and Cultural Rights should be paid honoraria equivalent to that payable to the members of other relevant treaty bodies; in its decision 1995/302 of 25 July 1995 it urged the General Assembly to give speedy attention to this matter.

19. The General Assembly, in its decision 52/463 of 31 March 1998, deferred further action on the question of honoraria pending the submission of a comprehensive report by the Secretary-General to the Assembly its fifty-third session on the question of honoraria payable to members of organs and subsidiary organs of the United Nations. It is noted that the granting of honoraria for experts is an exception to the basic principle that neither a fee nor any other remuneration is normally paid to members of organs and subsidiary organs of the United Nations in addition to travel expenses and a subsistence allowance (A/52/7/Add.7;

General Assembly resolutions 2489 (XXIII), 3536 (XXX) and 35/218).

Human rights of women

20. Welcoming the continuing emphasis by the persons chairing the human rights treaty bodies that the enjoyment of the human rights of women should be monitored closely by each treaty body within the purview of its mandate, the General Assembly, in its resolution 52/118, endorsed the request of the persons chairing the treaty bodies that the Division for the Advancement of Women of the Secretariat prepare a study analysing what each treaty body had done to incorporate gender perspectives into its work and making practical suggestions about what each could do to further incorporate gender perspectives. The Division will submit that study to the persons chairing the treaty bodies at their tenth meeting, in September 1998.

Coordination in the United Nations system in the field of human rights

21. The General Assembly, in its resolution 52/118, welcomed all measures the human rights treaty bodies might take, within their mandates, in response to situations of massive human rights violations, and requested the High Commissioner, acting within her mandate, to coordinate and consult throughout the United Nations system in this regard. Information from the treaty bodies on the human rights situation in specific countries, as well as on the status of ratifications, is routinely used by the High Commissioner and the Secretary-General during country visits.

22. The task of coordination is facilitated by a growing understanding of the links between human rights and other activities undertaken by the United Nations system. This is evident in the final documents adopted at recent world conferences and in the rights-based orientation adopted by a number of United Nations organizations and bodies, notably the United Nations Children's Fund (rights of the child) and the Office of the United Nations High Commissioner for Refugees (human rights law as a prime source of principles and structures for the protection of refugees), in addition to those agencies whose mandates traditionally focused on certain specific rights, such as the International Labour Organization (labour rights), the United Nations Educational, Scientific and Cultural Organization (the rights to education, to information and to participate in cultural life and freedom of opinion and expression) and the United Nations Centre for Human Settlements (Habitat) (the right to adequate housing).

23. The High Commissioner cooperates with these and other institutions through the inter-agency Executive Committees established by the Secretary-General to coordinate United Nations action in the areas of peace and security, economic and social affairs, humanitarian affairs and development. Through the Executive Committees, the High Commissioner is able to work towards mainstreaming human rights in all activities of the United Nations system. In addition, the High Commissioner has committed her Office to working with United Nations Secretariat departments, organizations and programmes to provide human rights training, particularly to field personnel. Human rights training is a priority component of discussions taking place between the Office of the High Commissioner and several of its key partners in the United Nations system, such as the United Nations Development Programme.

24. Detailed information on measures taken to coordinate United Nations action in the field of human rights is contained in the report of the Secretary-General to the Economic and Social Council on coordination of the policies and activities of the specialized agencies and other bodies of the United Nations system related to the coordinated follow-up to and implementation of the Vienna Declaration and Programme of Action (E/1998/60), the report of the Secretary-General to the General Assembly on this matter (A/53/372) and the report of the United Nations High Commissioner for Human Rights to the General Assembly (A/53/36).

Obstacles to the implementation of General Assembly resolution 52/118

25. Resolution 52/118 itself signals the main obstacle to its implementation, namely the lack of financial and human resources. This is part of the broader resource constraints facing the United Nations as a whole. In the context of restructuring of the Office of the United Nations High Commissioner for Human Rights, different alternatives have been tested to optimize Secretariat servicing of the treaty bodies within the limits of available resources. These, unfortunately, have not yielded significant improvements. It is hoped that the global plan of action for the treaty bodies (see para. 8 above) will lead to improvement in the support provided to all treaty bodies in respect of research, analysis, communications and implementation at the national level. States are encouraged to contribute generously to the plan.

26. Efforts to rationalize the operation of the Secretariat, however, do not address another area where serious resource constraints are affecting the work of the treaty bodies, namely, the time and resources allocated to the treaty bodies themselves. Only two treaty bodies are not faced with a substantial backlog of reports and communications, while the authorized meeting times of the other four treaty bodies do not allow them sufficient time to deal with the growing number of State reports and/or communications awaiting their consideration. Today, a report submitted to the treaty body with the largest backlog may be considered three years after its submission.

27. At the same time, some treaty bodies are making efforts to deal with the converse problem – the growing number of overdue reports and non-reporting States. Two treaty bodies have proceeded to examine the human rights situation, in the absence of a report, in States that have failed to submit a report despite receiving numerous reminders. Such efforts, however, require additional resources of the type cited above, namely, research support and meeting time.

Notes

[1] The most recent of these documents are CRC/C/40/Rev.9, issued by the Committee on the Rights of the Child, and E/C.12/1998/3, issued by the Committee on Economic, Social and Cultural Rights.

[2] International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Rights of the Child and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.